

COMMENTS HB 383 ON BEHALF OF THE  
TONGUE RIVER WATER USERS' ASSOCIATION  
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BEFORE THE HOUSE NATURAL RESOURCES COMMITTEE  
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Chairman, Members of the Committee, thank you for the opportunity to submit this testimony today. I have represented the Tongue River Water Users' Association for about 7 years now on coalbed methane issues. We have been working hard to protect the water quality of the Tongue River and its tributaries, including the ephemeral streams that are the subject of this bill.

Ephemeral streams contribute significantly to the flows of the Tongue River. Look at the definition of ephemeral stream in the bill. The flows from ephemeral streams are used for irrigation, as are the waters of the Tongue River. Maintaining high water quality in the ephemeral streams and in the Tongue River is critical to the irrigators on the Tongue River. It is also critical to insuring the viability of Montana's agricultural producers. Allowing discharges of coalbed methane water, well-recognized by scientists and courts as a pollutant containing high concentrations of salts and sodium is not "insignificant." Discharges of untreated CBM water into ephemeral streams poses an immediate and possibly irreparable threat to the irrigators and agricultural producers in the Tongue River Valley.

Moreover, HB 383 runs counter to the federal Clean Water Act and the Montana Water Quality Act. As the names of those statutes reveal, the goal is ***clean, high quality water***. The federal Clean Water Act states that the "objective . . . is to restore, and maintain the chemical, physical, and biological integrity of the Nation's waters."

The U.S. Supreme Court and other courts have consistently held that ephemeral streams are included in the definition of "the Nation's waters." The State of Montana has an affirmative duty to uphold and apply the federal law.

Montana's Board of Environmental Review established water quality standards in 2003. The water quality standards were promulgated with the input and expertise of the Department of Environmental Quality, as well as some of the nation's foremost soil scientists, hydrologists, and hydrogeologists. The water quality standards were established after a lengthy public comment period, which included many hearings and the opportunity to submit written comments and science. The CBM industry and its scientists participated significantly in the process for setting Montana's water quality standards. HB 383 would undo much hard work and would be contrary to the advice and expertise of the scientists who helped establish the standards.

HB 383 would also violate the federal Clean Water Act and the Montana Water Quality Act, as well as the Montana Constitution, which requires that the state maintain a clean environment, and requires that the legislature prevent degradation of the environment. Discharges of untreated CBM are simply not insignificant. HB 383 places irrigable lands at risk, and it places the water quality of all of Montana's rivers and ephemeral streams at risk. It also poses the risk of interfering with water rights on those streams and in the rivers.

The Tongue River Water Users are not trying to prevent people who want and need coalbed methane water from using the water. If they want to put CBM water in stock tanks on their private property,

that is fine. HB 383, however, would allow CBM companies to dump waters into impoundments in streams. The water in those streams is typically of high quality during rain and snow events, which provide much needed high quality water to the Tongue River. It is especially important to maintain the quality of the water of ephemeral streams in this time of extreme drought. Every drop of clean water is precious. Please protect our water and soils for agriculture.

I urge a do not pass on HB 383. Thank You.